



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 30, 1998

Ms. Glenda Robinson
Senior Associate General Counsel
Texas Tech University Health Sciences Center
Office of Vice Chancellor and General Counsel
3501 4th Street, 2B141
Lubbock, Texas 79430-0001

OR98-0296

Dear Ms. Robinson:

You ask this office to reconsider our ruling in Open Records Letter No. 97-2490 (1997). Your request for reconsideration was assigned ID# 112839.

The Texas Tech University Health Sciences Center (the "center") received a request for information regarding the requestor's status in a graduate medical training program. In Open Records Letter No. 97-2490 (1997), this office concluded in part that the center could not withhold the requested information under section 552.103 of the Government Code. In your request for reconsideration you explain that the center received notice of a lawsuit filed against the center dated November 12, 1997, two days before we issued Open Records Letter No. 97-2490 (1997).

You ask this office to reconsider our previous ruling based on the changed circumstances presented by the filed lawsuit. We agree that the petition raises new issues with respect to your arguments regarding litigation under section 552.103. Furthermore, we believe that you have timely notified this office of the changed circumstances as outlined in Open Records Decision No. 638 (1996). Therefore, we address your new arguments regarding the pending litigation.

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the governing body is or may be a party. Upon consideration of your new arguments and review of the information submitted, we conclude that you have demonstrated that litigation is pending and the requested information relates to the litigation. Therefore, the information may be withheld under section 552.103(a).

In reaching this conclusion, however, we assume that the opposing party to the pending litigation has not previously had access to the records at issue. Absent special circumstances, once information has been obtained by all parties to the litigation, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Open Records Letter No. 97-2490 (1997) is overruled to the extent it conflicts with this ruling. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID# 112839

Enclosures: Submitted documents

cc: Dr. Tommy E. Swate
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El Paso, Texas 79912
(w/o enclosures)